



**CITY OF MOUNT VERNON  
CITY COUNCIL MEETING  
AGENDA  
February 12, 2020 7:00 p.m.  
(Police Court Campus)**

**I. OPENING CEREMONIES**

- A. Call to Order
- B. Pledge of Allegiance
- C. Roll Call of Councilmembers

**II. CONSENT AGENDA**

- A. Approval of January 22, 2020 Regular Council Meeting Minutes
- B. Approval of February 5, 2020 payroll checks numbered 109863 – 109891, direct deposit checks numbers 75329 – 75577, and wire transfers numbered 819 – 823 in the amount of \$981,591.45
- C. Approval of February 12, 2020 Claims numbered 7530 – 7539, 7545 – 7547 and 7550 - 7783 in the amount of \$1,062,1500.97
- D. Approval of Dark Fiber Agreement with Community Action of Skagit County

**III. REPORTS**

- A. Committees
  - 1. Public Works and Library
  - 2. Public Safety
- B. Community Comments  
(An opportunity for Mount Vernon residents to address their City Council. Please limit comments to 3 minutes or less. Under normal circumstances, the Mayor and Council will not respond immediately to Community Comments. If you would like someone to follow-up with you regarding the topic of your comments, please leave your name and contact information on the form at the entrance of the Council Chambers.)
- C. Councilmember Comments
- D. Mayor's Report
- E. Committee Agenda Requests

**IV. UNFINISHED BUSINESS**

None

**V. NEW BUSINESS**

- A. Approval of Agreement with Skagit County  
(Staff is requesting that Council authorize the Mayor to enter into an agreement with Skagit County to renew the fiber optic services agreement.)  
(required action – motion)  
(staff contact – Kim Kleppe)

**B. Amendment to the Parking Ordinance**

(Staff is requesting that Council approve an ordinance that would amend Mount Vernon Municipal Code Chapter 10.20.093, making the north side of West Broadway, as well as the south side of the 100 block of West Broadway (BNSF tracks to South 3<sup>rd</sup> St.), a 3-hour parking zone.)

*(required action – ordinance)*

*(staff contact – Peter Donovan)*

**C. Approval of Agreement with Skagit Watershed Council**

(Staff is requesting that Council authorize the Mayor to enter into an agreement with the Skagit Watershed Council for the receipt of 2020 Lodging Tax Funds.)

*(required action – motion)*

*(staff contact – Doug Volesky)*

**D. Approval of Agreement with Skagit County**

(Staff is requesting that Council authorize the Mayor to enter into an agreement with Skagit County which allows for the design and construction of the Maddox Creek culvert removal and stream enhancement project.)

*(required action – motion)*

*(staff contact – Blaine Chesterfield)*

**E. Acceptance of Project Completion for Kulshan Pump Station Bar Screen Rehabilitation**

(Staff is requesting that Council accept the work completed by Harbor Pacific Contractor's Inc. in the amount of \$465,475.14 for the Kulshan Pump Station Bar Screen Rehabilitation Project.)

*(required action – motion)*

*(staff contact – William Bullock)*

**F. Acceptance of Project Completion for Bakerview Park Entrance Road Improvements Project**

(Staff is requesting that Council accept the work completed by PNW Civil Inc. for the Bakerview Park Entrance Road Improvements Project.)

*(required action – motion)*

*(staff contact – Bill King)*

**G. Approval of Agreements for Forestland Response and Fire Equipment Assistance**

(Staff is requesting that Council authorize the Mayor to enter into agreements with Department of Natural Resources for the Forestland Response and Fire Equipment Assistance.)

*(required action – motion)*

*(staff contact – Chief Bryan Brice)*

**COMMITTEE MEETINGS**

Public Works and Library

6:00 p.m.

Next Ordinance 3803

Next Resolution 974



DATE: February 12, 2020

TO: Mayor Boudreau and City Council

FROM: Kim Kleppe, IS Director

SUBJECT: RENEW INTERLOCAL FIBER AGREEMENT WITH SKAGIT COUNTY TO PROVIDE FIBER OPTIC SERVICES

**RECOMMENDED ACTION:**

Staff recommends that Council authorize the Mayor to renew an Agreement with Skagit County for fiber optic services.

**FINDINGS:**

- Skagit County has requested Mount Vernon support for fiber optic services as outlined in Exhibit "A".
- Skagit County shall pay the City of Mount Vernon for their services as outlined in Exhibit "B" and "C", based on each job submitted.
- Mount Vernon will provide services as long as it doesn't interfere with priorities in Mount Vernon and as time allows and works for both entities.

**CONCLUSION:**

- This agreement maintains an established working relationship with Skagit County for the use of fiber services.

**RECOMMENDATION:**

Staff recommends approval.

# INTERLOCAL COOPERATIVE AGREEMENT

BETWEEN

SKAGIT COUNTY  
AND  
CITY OF MOUNT VERNON

THIS AGREEMENT is made and entered into by and between City of Mount Vernon ("Agency") and Skagit County, Washington ("County") pursuant to the authority granted to each party under state law including but not limited to Chapter 39.34 RCW, INTERLOCAL COOPERATION ACT. The City and the County may be individually referred to herein as a "party", and may collectively referred to herein as the "parties".

1. PURPOSE: The City shall design, engineer and obtain permits for the purpose of relocation (removal and installation) of Skagit County fiber optic line(s) for Skagit County as described herein, also repair and assist with replacement of fiber lines.

2. RESPONSIBILITIES:

The City shall:

Provide Fiber Services ("Services") as set forth in Exhibit "A" attached hereto

The County shall:

- 1) Provide reimbursement to the City for labor and materials for the design, engineering, permits and the Services described herein at rates and reimbursable expenses set forth in Exhibit B and C attached hereto and incorporated herein.
- 2) Provide reasonable access to the Skagit County Facilities to the City's contractors, engineers, or other companies or individuals working to engineer and design a fiber optic network into these facilities.

3. TERM OF AGREEMENT:

The term of this Agreement shall be from the date of execution of this Agreement by both parties through December 31, 2022 unless sooner terminated pursuant to the terms herein.

4. MANNER OF FINANCING:

Upon the City's completion of the work to be performed (as provided herein), the County shall reimburse the City for time and materials and permitting fees for the design and engineering required to create bid specifications for fiber optic lines as specified herein.

Total compensation shall not exceed twenty thousand dollars (\$20,000). Neither party is obligated to pay, provide, or expend any funds, and/or provide and/or perform any other

services or other duties, unless otherwise specified herein. Upon request, the City shall provide adequate supporting documentation for any and all amounts billed to the County by the City pursuant to the terms of this Agreement

5. ADMINISTRATION:

The following individuals are designated as representatives of the respective parties. The representatives shall be responsible for administration of this Agreement and for coordinating and monitoring performance under this Agreement. In the event such representatives are changed, the party making the change shall notify the other party.

5.1 The County's representative shall be the Information Services Networking Lead

5.2 The City's representative shall be the City of Mount Vernon Information Services Manager.

6. TREATMENT OF ASSETS AND PROPERTY: No fixed assets or personal or real property will be jointly or cooperatively, acquired, held, used, or disposed of pursuant to this Agreement.

7. INDEMNIFICATION: Each party agrees to be responsible and assume liability for its own wrongful and/or negligent acts or omissions or those of their officials, officers, agents, or employees to the fullest extent required by law, and further agrees to save, indemnify, defend, and hold the other party harmless from any such liability. It is further provided that no liability shall attach to either party by reason of entering into this contract except as expressly provided herein.

8. TERMINATION: Any party hereto may terminate this Agreement upon thirty (30) days notice in writing either personally delivered or mailed postage-prepaid by certified mail, return receipt requested, to the party's last known address for the purposes of giving notice under this paragraph. If this Agreement is so terminated, the parties shall be liable only for performance rendered or costs incurred in accordance with the terms of this Agreement prior to the effective date of termination.

9. CHANGES, MODIFICATIONS, AMENDMENTS AND WAIVERS: The Agreement may be changed, modified, amended or waived only by written agreement executed by the parties hereto. Waiver or breach of any term or condition of this Agreement shall not be considered a waiver of any prior or subsequent breach.

10. SEVERABILITY: In the event any term or condition of this Agreement or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other terms, conditions or applications of this Agreement which can be given effect without the invalid term, condition, or application. To this end the terms and conditions of this Agreement are declared severable.

11. NO THIRD PARTY BENEFICIARIES: This Agreement is not intended to nor does it create any third party beneficiary or other rights in any third person or party, including, but not limited to, the general public, property owners and residents at or in the vicinity of the work to be performed, or any other organization or entity, or any agent, contractor, subcontractor, consultant, employee, volunteer, or other representative or any party.

12. NO PARTNERSHIP OR JOINT VENTURE: No partnership and/or joint venture exists between the parties, and no partnership and/or joint venture is created by and between the parties by virtue of this Agreement. No agent, employee, contractor, subcontractor, consultant, volunteer, and/or other representative of the parties shall be deemed an agent, employee, contractor, subcontractor, consultant, volunteer, or other representative of the other party.

13. USE OF DOCUMENTS AND MATERIAL PRODUCED: Unless privileged, or otherwise exempt from public disclosure pursuant to applicable law, both parties shall have the right to use and distribute any and all documents, writings, programs, data, public records or other materials prepared by any party (and/or any party's contractors, consultants, and/or subcontractors), in connection with performance of this Agreement. The parties recognize and agree that any documents and/or materials arising from or related to this Agreement may be subject to disclosure pursuant to applicable law (including RCW 42.56).

14. COMPLIANCE WITH LAWS: The parties to this Agreement shall comply with all applicable federal, state, and local laws, rules, and regulations in carrying out the terms and conditions of this Agreement. If necessary, each party (at such party's own expense and liability) shall obtain and comply with all necessary permit(s) and approval(s) from all applicable jurisdictions prior to commencing any use and/or occupancy, conducting any work and/or prior to the commencement of any work arising from or related to this Agreement, and individually each party solely and separately responsible and liable for compliance with all terms and conditions of any permit(s) and/or grant(s) obtained in such party's name.

15. VENUE AND CHOICE OF LAW: In the event that any litigation should arise concerning the construction or interpretation of any of the terms of this Agreement, the venue of such action of litigation shall be in the Superior Court of the State of Washington in and for the County of Skagit. This Agreement shall be governed by the laws of the State of Washington.

16. ENTIRE AGREEMENT: This Agreement contains all the terms and conditions agreed upon by the parties. All items incorporated herein by reference are attached. No other understandings, oral or otherwise, regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

**\*\*IN WITNESS WHEREOF the parties hereto have executed this document as of the day and year first written above.**

**CITY OF MOUNT VERNON**

Approved as to form:

By: \_\_\_\_\_  
Jill Boudreau, Mayor

By: \_\_\_\_\_  
Kevin Rogerson, City Attorney

Date: \_\_\_\_\_

Attest:

\_\_\_\_\_  
Doug Volesky, Finance Director

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**BOARD OF COUNTY COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON**

\_\_\_\_\_  
Ron Wesen, Chair

\_\_\_\_\_  
Kenneth A. Dahlstedt, Commissioner

Attest:

\_\_\_\_\_  
Lisa Janicki, Commissioner

\_\_\_\_\_  
Clerk of the Board

For contracts under \$5,000:  
Authorization per Resolution R20030146

Recommended:

\_\_\_\_\_  
County Administrator

\_\_\_\_\_  
Department Head

Approved as to form:

\_\_\_\_\_  
Civil Deputy Prosecuting Attorney

Approved as to indemnification:

\_\_\_\_\_  
Risk Manager

Approved as to budget:

\_\_\_\_\_



## **EXHIBIT A**

### **MOUNT VERNON PROVIDED FIBER SERVICES (“SERVICES”)**

- Engineering, Design, and Install of Fiber Optic cables
- Permitting, Surveying and basic make ready of Fiber Builds
- Fiber splicing and testing
- Replacement, Repair, and assistance to Skagit County fiber networking
- Installation – Including Aerial, underground, permits, pole surveys, pole make ready, splicing, fiber labeling, fiber tags and provide documentation
- Shall provide staff capable of performing the following in a workmanlike manner consistent with industry standards
- Prior to work being performed, City shall provide an estimate of costs that will be billed to the County. Estimate shall be based on City’s estimated time and materials to perform the Work.

**EXHIBIT B**  
**COMPENSATION**

☐ The County shall pay the City a sum equal to the amount of hours actually worked multiplied by the rate identified herein for the staff performing the task. Rates include the use of equipment and vehicles.

Rates do not include materials used.

[illegible]

**EXHIBIT C**  
REIMBURSABLE EXPENSES

***See attached fee schedule.***

| Type of Expense   | Rate        |
|---|-------------|
| Misc. Fiber Materials and related used to install the fiber | Cost + 15 % |
| Fiber Material  | Cost + 15 % |
| Equipment Use   | Cost + 15 % |
|   |             |
|   |             |
|   |             |
|   |             |



**DATE:** February 12, 2020  
**TO:** Mayor Boudreau and City Council  
**FROM:** Peter Donovan, Project Development Manager  
**SUBJECT:** AMENDMENT TO PARKING ORDINANCE

**RECOMMENDED ACTION:**

Ordinance

**INTRODUCTION/BACKGROUND:**

The streets of Downtown Mount Vernon as well as the neighborhood to the south of the downtown area have, for the most part, been designated as 3-hour parking zones, between the hours of 6am and 6pm.

The 100 block of West Broadway has been inexplicably omitted from this code.

**FINDINGS/CONCLUSIONS:**

Staff (Police, Public Works, Mayor's Office) have recognized a need to include the north and south sides of the 100 block of West Broadway (S. 3rd Street to BNSF tracks) within the same 3-hour parking provisions as the rest of this street, and the rest of the area.

**RECOMMENDATION:**

Staff recommends Council approve an ordinance to amend the City's parking code (MVMC 10.20.093), making the north and south sides of West Broadway a 3-hour parking zone—creating consistency within the code for this area.

**ATTACHED:**

Proposed Ordinance

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE CITY OF MOUNT VERNON, WASHINGTON  
RELATING TO PARKING AMENDING CHAPTER 10.20 PARKING ZONES**

**WHEREAS**, the City has authority to establish and enforce vehicle regulations and fines not in conflict with state or federal law; and

**WHEREAS**, the City Council has established vehicle regulations and fines for on street parking within Chapter 10.20 of the Mount Vernon Municipal Code; and

**WHEREAS**, adequate deterrent for wrongful parking and maintaining adequate inventory within the City including downtown or near downtown is import to the vibrancy and economic well-being of our city; and

**WHEREAS**, the City Council of the City of Mount Vernon finds that providing designated time limitations to parking on certain City Streets will increase parking efficiency;

**NOW, THEREFORE,**

**THE CITY COUNCIL OF MOUNT VERNON, WASHINGTON, DO ORDAIN AS  
FOLLOWS:**

**Section One. Amendment.** Chapter 10.20 Parking Zones is hereby amended to read as follows:

**10.20.093 Three-hour parking- Zones Designated.**

When signs are erected giving notice thereof, upon the following streets and between the hours of 6:00 am to 6:00 pm no vehicle shall be parked for a longer period than three hours, excepting on Saturday, Sundays and legal holidays.

| Street    | Extent   | Side  |
|-----------|--|-------|
| Cleveland | 800 block Kincaid to<br>Broadway   | Both  |
| Cleveland | 900 block, south half,<br>Broadway to Snoqualmie                             | East  |
| Broadway  | 1200-4300 blocks<br>Cleveland to S. 2 <sup>nd</sup> 1st to<br>BNSF RR tracks | North |

| Broadway               | 100 block 1st to Cleveland<br>3rd to BNSF RR Tracks | North<br>South |
|------------------------|---|----------------|
| Kincaid                | 300 block S. 1st to S. 2nd                          | North          |
| Main                   | 200-400 blocks Gates to<br>Division                 | East           |
| Main                   | 600 block, south half, Pine<br>to Myrtle            | East           |
| S. 1st                 | 200-700 blocks Kincaid to<br>Washington             | Both           |
| S. 2nd                 | 400-500 blocks Myrtle to<br>Montgomery              | East           |
| S. 2nd                 | 500-600 blocks Pine to<br>Gates                     | West           |
| S. 2nd                 | 1000 block Snoqualmie to<br>Milwaukee               | Both           |
| S. 2nd                 | 1200-1300 blocks Section<br>to Hazel                | Both           |
| S. 3rd                 | 400 block Gates to<br>Montgomery                    | East           |
| S. 3rd                 | 400-500 blocks Myrtle to<br>Montgomery              | West           |
| S. 3rd                 | 900-1100 blocks<br>Broadway to Section              | Both           |
| Pine                   | 400 block Main to S. 1st                            | South          |
| Myrtle                 | 300-400 blocks Main to S.<br>2nd                    | Both           |
| Gates                  | 300-400 blocks Main to S.<br>2nd                    | Both           |
| Gates                  | 200 block S. 3rd to S. 2nd                          | South          |
| Montgomery             | 200-300 blocks S. 1st to<br>S. 3rd                  | Both           |
| Montgomery             | 400 block Main to S. 1st                            | North          |
| Washington             | 300 block S. 1st – S. 2nd                           | North          |
| Montgomery<br>and Main | 400 block parking lot –<br>east row of stalls only  |                |
| Snoqualmie             | 400 block 1st to Cleveland                          | North          |
| Snoqualmie             | 200 block S. 2nd to S. 3rd                          | Both           |

|            |                               |         |
|------------|-------------------------------|---------|
| Milwaukee  | 300 block Cleveland to S. 2nd | NE Half |
| Section    | 300 block Cleveland to S. 2nd | Both    |
| N. 1st St. | 100 block                     | Both    |

The parking lot located at the north corner of the 100 block of N. 1st Street and Freeway Drive lying west of Freeway Drive and east of N. 1st Street.

The parking lot located at the northeast corner of S. 3rd Street and W. Gates Street intersection.

The parking lot located at the southeast corner of S. 2nd Street and W. Kincaid Street intersection.

**Section Two. Severability.** If any section, subsection, paragraph, sentence, clause, or phrase of this ordinance is declared unconstitutional or invalid for any reason, such decision shall not affect the validity of the remaining parts of this ordinance.

**Section Three. Effective Date.** This ordinance shall be effective five days after its publication.

PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
Doug Volesky, Finance Director

SIGNED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
JILL BOUDREAU, Mayor

Approved as to form:

\_\_\_\_\_  
Kevin Rogerson, City Attorney

Published \_\_\_\_\_



**DATE:** February 12, 2020  
**TO:** Mayor Boudreau and City Council  
**FROM:** Doug Volesky, Finance Director  
**SUBJECT:** APPROVAL OF AGREEMENT WITH SKAGIT WATERSHED COUNCIL

**RECOMMENDED ACTION:**

Staff is requesting that Council authorize the Mayor to enter into an agreement with the Skagit Watershed Council for the receipt of budgeted 2020 Lodging Tax Funds.

**INTRODUCTION/BACKGROUND:**

During the 2020 budget process the Skagit Watershed Council applied and was awarded \$1,500 from the Tourism Promotion Fund.

**FINDINGS/CONCLUSIONS:**

Per RCW 42.23.040, Councilmember Brocksmith has a “remote interest” in the agreement as an employee of Skagit Watershed Council. A remote interest still allows Council to approve the contract following the procedures set forth in statute. Pursuant to RCW 42.23.040, the agreement must be approved by the Council after Councilmember Brocksmith discloses the extent of his interest which shall be noted in the minutes and abstains from the vote of the agreement.

**RECOMMENDATION:**

Staff is requesting that Council authorize the Mayor to enter into an agreement with the Skagit Watershed Council for the receipt of 2020 Lodging Tax Funds.

**ATTACHED:**

Contract for Services





## CONTRACT FOR SERVICES

THIS AGREEMENT made and entered into by and between the City of Mount Vernon (hereinafter referred to as the City) and the Skagit Watershed Council (hereinafter referred to as Contractor)

WITNESSES THAT:

WHEREAS, the City collects a 2% tax on the charge for furnishing lodging by a hotel, rooming house, tourist court, motel or trailer camp, and

WHEREAS, the use of these tax revenues is restricted by RCW 67.28.180 to the certain explicit uses, including the promotion of local tourism, and the operation of tourism-related facilities, and

WHEREAS, the Contractor is a nonprofit organization formed for the express purpose of producing and promoting the 6<sup>th</sup> Annual Illuminight Winter Walk in Mount Vernon thereby attracting tourists to the City, and

WHEREAS, the Scope of Work included in this contract is consistent with this purpose and state law; Now, therefore,

In consideration of the mutual promises and obligations hereinafter set forth, the parties hereto agree as follows:

### I. Scope and Schedule of Work

- A. The Contractor agrees to perform those services described in Exhibit A, attached hereto and incorporated herein.
- B. All obligations and services of the Contractor undertaken pursuant to this Agreement shall be performed diligently and completely in accordance with professional standards of conduct and performance.
- C. All work shall be satisfactorily completed on or before **December 31, 2020**. The time period for performance shall be extended by the amount of time that the Contractor is unable to proceed because of a delay solely attributable to the City, provided that the Contractor advises the City of the delay as soon as is practicable.

### II. Compensation and Payment

- A. The City shall pay the Contractor **an amount not to exceed \$1,500.00**, for the services performed under this contract and as outlined in Exhibit A. Such payment shall be the total compensation for all work performed under this Agreement, including but not limited to all labor, materials and supplies, incidental expenses, subcontractor's fees, reimbursable expenses, and equipment expenses.

- B.** The Contractor shall be eligible for payment after the performance of all services under this contract. The Contractor shall submit an original written invoice, with necessary and appropriate documentation, to receive payment. Address invoices to:

Finance Director  
City of Mount Vernon  
910 Cleveland Avenue  
Mount Vernon, WA 98273

- C.** Payment shall be made through the City's ordinary payment process, and shall be considered timely if made within 30 days of receipt of a properly completed invoice.
- D.** The City may withhold payment to the Contractor for any work not completed to the City's satisfaction, until such time as the Contractor modifies such work to the satisfaction of the City.
- E.** All payments shall be subject to adjustment for any amounts, upon audit or otherwise, determined to have been improperly invoiced.
- F.** In the event the Contractor fails to pay any taxes, assessments, penalties, or fees imposed by any governmental body, including a court of law, then the Contractor authorizes the City to deduct and withhold or pay over to the appropriate governmental body those unpaid amounts upon demand by the governmental body. It is agreed that this provision shall apply to taxes and fees imposed by City ordinance. Any such payments shall be deducted from the Contractor's total compensation.

### **III. Annual Reporting**

- A.** The Contractor shall complete a Post Event/Activity Information Report, attached as Exhibit B, for the contract year. The annual report is a requirement established by the 2013 Washington State Legislature. The report shall be provided to the City immediately after the event, festival or activity, but due no later than January 31<sup>st</sup> of the year following the contract year.
- B.** The City shall file an annual report with the State of Washington Joint Legislative Audit and Review Committee (JLARC) for lodging tax activity which will detail information received from the Contractor, and other recipient organizations.

### **IV. Termination of Agreement**

- A.** The City may terminate this Agreement at any time, with or without cause, by giving 10 days notice to the Contractor in writing. In the event of termination, all finished and unfinished work prepared by the Contractor pursuant to this Agreement shall be provided to the City. In the event the City terminates this Agreement prior to completion without cause, the Contractor may complete such analyses and records as may be necessary to place its files in order, and

as mutually agreed to by the parties. The Contractor shall be entitled to receive just and equitable compensation for satisfactory work completed prior to the date of termination, not to exceed the total compensation set forth herein.

- B.** The City may suspend this Agreement, at its sole discretion, upon one week's advance notice to the Contractor. Such notice shall indicate the anticipated period of suspension. Any reimbursement for expenses incurred due to the suspension shall be limited to the Contractor's reasonable expenses, and shall be subject to verification. The Contractor shall resume performance of services under this Agreement without delay when the suspension period ends.
- C.** Neither party shall be considered to be in default in the performance of this Agreement to the extent that performance is prevented or delayed by any cause which is beyond the reasonable control of the affected party.

## **V. Rights in Data and Publications**

- A.** Data which is developed pursuant to this Agreement shall be "works for hire" as defined by the U.S. Copyright Act of 1976, as amended, and shall be owned by the City. Pursuant to U.S.C. § 201, the City will be deemed the author of the data and will own all copyrights in the data. "Data" shall mean all work product to be provided by the Contractor under this Agreement and shall include, but not be limited to, draft and final reports, documents, pamphlets, advertisements, books, magazines, surveys studies, computer programs, films, tapes and/or sound reproductions. The Contractor shall obtain the City's written approval prior to the publication of any results of studies and/or services performed or to be performed for any purpose other than for City use. This provision shall not apply to any data that is developed independent of this Agreement.
- B.** The Contractor shall be solely responsible for obtaining releases for the performance, display, recreation, or use of copyrighted materials.

## **VI. Contract Administration and Management**

- A.** The **Finance Department** for the City shall have primary responsibility for administering and approving services to be performed by the Contractor, and shall coordinate all communications between the Contractor and the City.
- B.** Any and all notices affecting or relative to this Agreement shall be effective if in writing and delivered or mailed, postage prepaid, to the respective party being notified at the address listed with the signature of this Agreement.
- C.** The Contractor, at such times and in such form as the City may require, shall furnish the City with periodic reports pertaining to the work and services undertaken pursuant to this Agreement, the costs and obligations incurred or to be incurred in connection therewith, and any other matters covered by this contract. The Contractor will make available to the City all work-related accounts, records and documents for inspection, auditing, or evaluation during normal business hours in order to assess performance, compliance and/or quality assurance under this Agreement.

- D. The Contractor shall comply with all applicable federal, state and local laws, ordinances, rules and regulations.
- E. The Contractor shall not assign, subcontract, delegate, or transfer any obligation, interest or claim to or under this Agreement or for any of the compensation due hereunder without the prior written consent of the City.
- F. The City may, from time to time, require changes or modifications in the Scope of Work to be performed here-under. Such changes, including any decrease or increase in the amount of compensation therefore, which are mutually agreed upon by the City and the Contractor shall be incorporated in written amendments to this contract.

## **VII. Independent Contractor Status**

- A. The Contractor is and shall be at all times during the term of this Agreement an independent contractor, and not an employee of the City.
- B. The Contractor acknowledges that it is responsible for the payment of all charges and taxes applicable to the services performed under this Agreement, and the Contractor agrees to comply with all applicable laws regarding the reporting of income, maintenance of insurance and records, and all other requirements and obligations imposed as a result of the Contractor's status as an independent contractor. If the City is assessed, liable or responsible in any manner for those charges or taxes, the Contractor agrees to hold the City harmless from those costs, including attorney's fees.
- C. The Contractor shall provide at its sole expense all materials, office space, and other necessities to perform its duties under this Agreement, unless otherwise specified in writing.
- D. The Contractor, at its expense, shall obtain and keep in force any and all necessary licenses and permits. The Contractor shall obtain a business license as may be required by the Mount Vernon Municipal Code, and shall pay business and occupation taxes as required by the Mount Vernon Municipal Code.
- E. This Agreement shall be for the sole benefit of the parties hereto, and nothing contained herein shall create a contractual relationship with, or create a cause of action in favor of, a third party against either party hereto.

## **VIII. Indemnification**

- A. The Contractor shall indemnify, defend, and hold harmless the City, its officials, officers, agents, employees, and volunteers, from any and all claims, demands, damages, lawsuits, liabilities, losses, liens, expenses and costs arising out of the subject matter of this Agreement; provided that this provision shall not apply to the extent that damage or injury results from the fault of the City, or its officers, agents, or employees. The term "fault" as used herein shall have the same meaning as set forth in RCW 4.22.015, as that statute may hereafter be amended.

- B.** The Contractor specifically assumes potential liability for actions brought by the Contractor's own employees against the City and, solely for the purpose of this indemnification and defense, the Contractor specifically waives any immunity under the state industrial insurance law, Title 51 RCW. The Contractor recognizes that this waiver was the subject of mutual negotiation.
- C.** These indemnifications shall survive the termination of this Agreement.
- D.** A waiver or failure by either party to enforce any provision of this Agreement shall not be construed as a continuing waiver of such provisions, nor shall the same constitute a waiver of any other provision of this Agreement.

#### **IX. Non-discrimination.**

The Contractor agrees to take all steps necessary to comply with all federal, state, and City laws regarding non-discrimination and equal employment opportunities. The Contractor shall not discriminate in any employment action because of race, creed, color, national origin, marital status, sex, age, or the presence of any sensory, mental or physical handicap. In the event of non-compliance by the Contractor with any of the non-discrimination provisions of this Agreement, the City shall be deemed to have cause to terminate this Agreement, in whole or in part.

#### **X. Conflict of Interest.**

No officer, employee or agent of the City, nor any member of the immediate family of any such officer, employee or agent as defined by City ordinance, shall have any personal financial interest, direct or indirect, in this Agreement, either in fact or in appearance. The Contractor shall comply with all federal, state, and City conflict of interest laws, statutes and regulations. The Contractor represents that the Contractor presently has no interest and shall not acquire any interest, direct or indirect, in the program to which this Agreement pertains which would conflict in any manner or degree with the performance of the Contractor's services and obligations hereunder. The Contractor further covenants that, in performance of this Agreement, no person having any such interest shall be employed.

#### **XI. Interpretation and Venue.**

- A.** Washington law shall govern the interpretation of this Agreement. Skagit County shall be the venue of any arbitration or lawsuit arising out of this Agreement.
- B.** If one or more of the clauses of this Agreement is found to be unenforceable, illegal or contrary to public policy, the Agreement will remain in full force and effect except for the clauses that are unenforceable, illegal or contrary to public policy.
- C.** This Agreement constitutes the complete and final agreement of the parties, replaces and supersedes all oral and/or written proposals and agreements heretofore made on the subject matter, and may be modified only in writing signed by both parties.

IN WITNESS WHEREOF, the City and the Contractor have executed this contract agreement as of the date and year last written below:

**City OF MOUNT VERNON**

**Contractor**

\_\_\_\_\_  
Jill Boudreau, Mayor

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Doug Volesky, Finance Director

Title: \_\_\_\_\_

Approved as to form:

Date: \_\_\_\_\_

\_\_\_\_\_  
Kevin Rogerson, City Attorney

Tax ID#: \_\_\_\_\_

## EXHIBIT A

### SCOPE AND SCHEDULE OF WORK

The City will provide such assistance and guidance as may be required, in the City's sole discretion, to support the objectives set forth in the Scope of Work and will provide funding for the services and activities as set forth below.

#### Scope of Work:

The Contractor shall advertise and promote the 6<sup>th</sup> Annual Illuminight Winter Walk in Mount Vernon in such a manner so as to attract tourists to visit the City of Mount Vernon. Such promotion and advertisement may consist of:

- (a) Tourism marketing;
- (b) The marketing and operations of special events and festivals designed to attract tourists;
- (c) Supporting the operations and capital expenditures of tourism-related facilities owned or operated by a municipality or a public facilities district created under chapters [35.57](#) and [36.100](#) RCW; or
- (d) Supporting the operations of tourism-related facilities owned or operated by nonprofit organizations described under 26 U.S.C. Sec. 501(c)(3) and 26 U.S.C. Sec. 501(c)(6) of the internal revenue code of 1986, as amended.



## EXHIBIT B

### 2020 Post Event/Activity Information Report for Lodging Tax Recipients

Report is due immediately after event but no later than January 31, 2021

Return to: [mvfinance@mountvernonwa.gov](mailto:mvfinance@mountvernonwa.gov) or 910 Cleveland Ave, Mount Vernon, WA 98273

1. Organization Name: \_\_\_\_\_
2. Event/Activity Name: \_\_\_\_\_
3. Start Date: \_\_\_\_\_ End date: \_\_\_\_\_
4. Total Mount Vernon Lodging Tax Funds Awarded: \$ \_\_\_\_\_
5. Total Cost of Event or Facility: \$ \_\_\_\_\_
6. Total Attendance Projected: \_\_\_\_\_
7. Actual Attendance: \_\_\_\_\_
8. Attendance Method: ☐ structured estimate ☐ informal survey ☐ direct count ☐ other
9. Please provide details of attendance for the Event or Facility.
  - a) # traveled 50 miles for the day only: projected \_\_\_\_\_ actual \_\_\_\_\_  
Attendance Method: ☐ structured estimate ☐ informal survey ☐ direct count ☐ other
  - b) # traveled out of state/out of county: projected \_\_\_\_\_ actual \_\_\_\_\_  
Attendance Method: ☐ structured estimate ☐ informal survey ☐ direct count ☐ other
  - c) Overnight paid attendance: projected \_\_\_\_\_ actual \_\_\_\_\_  
Attendance Method: ☐ structured estimate ☐ informal survey ☐ direct count ☐ other
  - d) Overnight unpaid attendance: projected \_\_\_\_\_ actual \_\_\_\_\_  
Attendance Method: ☐ structured estimate ☐ informal survey ☐ direct count ☐ other
  - e) # of paid lodging nights: \_\_\_\_\_  
Attendance Method: ☐ structured estimate ☐ informal survey ☐ direct count ☐ other
10. Describe methodology used to determine the attendance figures answered in questions 6, 7 and 9  
\_\_\_\_\_  
\_\_\_\_\_

Submitted by: \_\_\_\_\_ Date: \_\_\_\_\_

E-mail or phone number: \_\_\_\_\_





**DATE:** February 12, 2020

**TO:** Mayor Boudreau and City Council

**FROM:** Blaine Chesterfield, Engineering Manager

**SUBJECT:** INTERLOCAL COOPERATIVE AGREEMENT AMENDMENT #1 WITH SKAGIT COUNTY FOR THE MADDOX CREEK CULVERT REMOVAL AND STREAM ENHANCEMENT PROJECT

**RECOMMENDED ACTION:**

Staff recommends council authorize the Mayor to sign the Amendment to the Interlocal Cooperative Agreement and temporary construction easement with Skagit County which allows for the design and construction of the Maddox Creek culvert removal and stream enhancement project. The City's contribution of funds will be in the amount of \$75,000. A 15 percent total project costs cap of \$90,129.45 is also part of this amendment.

**INTRODUCTION/BACKGROUND:**

The purpose of this Agreement is to allow the County and the City to work in cooperation on the Maddox Creek Culvert Removal and Stream Enhancement Project.

The culvert was installed by the County during the 70s as a future 19th Street extension. The culvert is two hundred and ten feet (210') long, perched three feet (3') above Maddox Creek, and is covered by approximately ten thousand (10,000) cubic yards of fill. The 19th Street extension was not built and the culvert has become a fish barrier.

Approximately one third of the culvert is located on City property within Bonnie Rae Park so a temporary construction easement is included in the Interlocal Cooperative Agreement.

The County and City have been awarded a Centennial grant from the Washington State Department of Ecology (DOE) to help pay for the removal of the culvert and restoration of the stream channel. The total cost to the City will be \$75,000 and has been approved under budget code 403.38.531.37.6310. A fifteen percent total project costs cap of \$90,129.45 has been added per the amendment.

**FINDINGS/CONCLUSIONS:**

- The culvert was installed during the 70s for a future extension that is no longer needed.
- The culvert is 210 feet long and perched 3 feet above Maddox Creek.
- Past City projects have removed all other barriers along this section of Maddox Creek.
- Removal of this culvert will open up 2 miles of stream for fish habitat.
- The DOE Centennial grant will pay for 75% or up to \$450,647 of the costs.
- The City and County will each match 12.5% or up to \$75,000 each for a total of \$150,000.
- Project costs exceeding the estimate shall be shared equally 50% by the City and County. The City shall not be responsible for any costs exceeding 15% (\$90,129.45) of the total project costs.
- The total cost of the culvert removal and stream enhancement project is estimated at \$600,863

**RECOMMENDATION:**

Staff recommends Council approve the Amendment to the Interlocal Cooperative Agreement and temporary construction easement with Skagit County and authorize the Mayor to execute the agreement.

**ATTACHED:**

Interlocal Cooperative Agreement which includes a Temporary Construction Easement

**AMENDMENT #1**  
**ORIGINAL AGREEMENT #C20190444**

City of Mount Vernon, hereinafter called "City", and Skagit County, hereinafter called "County", agree to amend Agreement No. C20190444, as set forth below under "Terms of Amendment".

**TERMS OF AMENDMENT:**

3. **TERM OF AGREEMENT:** The term of this Agreement shall commence on July 1, 2018 and continue through June 30, 2021, unless sooner terminated pursuant to the terms herein.

4. **MANNER OF FINANCING:** The total estimated cost of the Project is currently six hundred thousand eight hundred and sixty-three dollars (\$600,863). The City shall provide a twelve and one-half percent (12.5%) match equal to the County's twelve and one-half percent (12.5%) of the total Project cost, up to the Ecology grant total requirement. Project costs exceeding the estimated grant amount of six hundred thousand eight hundred and sixty-three dollars (\$600,863) shall be shared equally at fifty percent (50%) by the City and fifty percent (50%) by the County. The City shall be solely and separately responsible and liable for payment of the City's portion of the total Project cost even if such amount exceeds the aforementioned estimate; provided however the City shall not be responsible and liable for such payment of the City's fifty percent (50%) portion in an amount exceeding fifteen percent (15%) or ninety thousand one hundred twenty nine dollars and forty-five hundredths (\$90,129.45) of the original Project cost estimate, as documented by the County. The County shall otherwise be responsible for all other Project costs, including costs in excess of the amount obligated to be provided by the City as specified herein. Upon request by the City, the County shall provide reasonable and adequate supporting documentation for all amounts invoiced to the City. The County will submit invoices to the City thirty (30) days following each reimbursement request approval by Ecology. Neither Party shall be obligated to pay, provide, or expend any funds, and/or provide and/or perform any other services or other duties, unless otherwise specified herein.

All other terms and conditions of the original Agreement shall remain unchanged and in effect.

Date: \_\_\_\_\_, 2020.

City of Mount Vernon

By: \_\_\_\_\_  
Jill Boudreau, Mayor

Attest:

\_\_\_\_\_  
Doug Volesky, Finance Director

Approved as to Form:

\_\_\_\_\_  
Kevin Rogerson, City Attorney

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

**BOARD OF COUNTY COMMISSIONERS  
SKAGIT COUNTY, WASHINGTON**

\_\_\_\_\_  
Ron Wesen, Chair

\_\_\_\_\_  
Kenneth A. Dahlstedt, Commissioner

Attest:

\_\_\_\_\_  
Lisa Janicki, Commissioner

\_\_\_\_\_  
Clerk of the Board

For contracts under \$5,000:  
Authorization per Resolution R20030146

Recommended:

\_\_\_\_\_  
County Administrator

\_\_\_\_\_  
Department Head

Approved as to form:

\_\_\_\_\_  
Civil Deputy Prosecuting Attorney

Approved as to indemnification:

\_\_\_\_\_  
Risk Manager

Approved as to budget:

\_\_\_\_\_  
Budget & Finance Director



**DATE:** February 12, 2020

**TO:** Mayor Boudreau and City Council

**FROM:** William Bullock, P.E., City Engineer

**SUBJECT:** PROJECT COMPLETION DR-2016-005: KULSHAN PUMP STATION BAR SCREEN REHABILITATION

**RECOMMENDED ACTION:**

Staff recommends Council authorize the mayor to accept the work completed by Harbor Pacific Contractors, Inc., on the Kulshan Pump Station Bar Screen Rehabilitation Project.

**INTRODUCTION/BACKGROUND:**

Harbor Pacific Contractors has completed the Kulshan Pump Station Bar Screen Rehabilitation Project. The project provided for the installation of an automated bar screen and hydraulic rake to remove leaves, sticks and debris from the pump intake. The project was awarded on October 10, 2018, for \$465,475.14.

**FINDINGS/CONCLUSIONS:**

Project completion was achieved on January 30, 2020, in accordance with the plans and specifications. The final adjusted contract amount was \$465,475.14.

**RECOMMENDATION:**

Staff recommends accepting the work performed by Harbor Pacific Contractors, Inc., for the Kulshan Pump Station Bar Screen Rehabilitation Project.

**ATTACHED:**

None



**DATE:** February 12, 2020

**TO:** Mayor Boudreau and City Council

**FROM:** Bill King, Park and Enrichment Services Director

**SUBJECT:** PROJECT ACCEPTANCE: BAKERVIEW PARK ENTRANCE ROAD IMPROVEMENTS, PROJECT NO PK-2019-008

**RECOMMENDED ACTION:**

Staff recommends Council authorize the Mayor to accept the work completed by PNW Civil, Inc., on the Bakerview Park Entrance Road Improvements Project.

**INTRODUCTION/BACKGROUND:**

PNW Civil, Inc. has completed the Bakerview Park Entrance Road Improvements Project. The project included spot and pothole repair of existing asphalt, installation of new curb, gutter and sidewalk, new catch basins, replacement of speed bumps, and overlay of the entrance roadway. The project was awarded on August 14, 2019, for \$228,784.50.

**FINDINGS/CONCLUSIONS:**

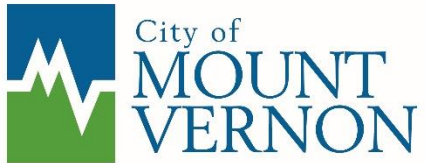
Project completion was achieved on October 28, 2019, in accordance with the plans and specifications. The final adjusted contract amount was \$241,195.23.

**RECOMMENDATION:**

Staff recommends accepting the work performed by PNW Civil, Inc., for the Bakerview Park Entrance Road Improvements Project.

**ATTACHED:**

None



**DATE:** February 12, 2020

**TO:** Mayor Boudreau and City Council

**FROM:** Bryan Brice, Fire Chief

**SUBJECT:** INTERLOCAL AGREEMENT FOR FORESTLAND RESPONSE AND FIRE EQUIPMENT ASSISTANCE

**RECOMMENDED ACTION:**

Staff recommends that Council adopt the interlocal agreements with the Department of Natural Resources and authorize the Mayor to execute the agreement.

**INTRODUCTION/BACKGROUND:**

The purpose of the Forestland Response agreement is to provide for mutual assistance and cooperation in the control and suppression of forestland fires. This Agreement pertains to forestland fire incidents within or adjacent to the city boundaries and to Fire Department resources ordered through the Department of Natural Resources (DNR) for dispatch outside of city boundaries.

The second agreement, Fire Equipment Assistance, provides the city the opportunity to participate in the Federal Excess Personal Property (FEPP) program. This program allows for the loaning of equipment to a department provided they follow strict guidelines for accountability, tracking and replacement.

These agreements are a continuation of previous agreements we have had with the Department of Natural Resources (DNR). In previous years both attached agreements were combined into one agreement. DNR has determined it is better to separate the two agreements as they have different functions and one is not reliant on the other.

**FINDINGS/CONCLUSIONS:**

None

**RECOMMENDATION:**

Staff recommends that Council adopt the interlocal agreements with the Department of Natural Resources and authorize the Mayor to execute the agreement.

**ATTACHED:**

DNR Forestland Response Agreement  
DNR Fire District Assistance Agreement





## FORESTLAND RESPONSE AGREEMENT

Agreement No.

This Agreement is entered into between the state of Washington, Department of Natural Resources, **Northwest** Region, hereinafter referred to as “DNR”, and the below named Fire Protection District/Department, hereinafter referred to as “District/Department.”

**City of Mount Vernon, Mount Vernon Fire Department**  
**1901 N LaVenture Rd**  
**Mt Vernon, WA 98273**  
**Phone: 360-336-6277**  
**FAX: 360-336-6247**  
**Email: bryanb@mountvernonwa.gov**

Authority: This Agreement is entered into by DNR under the authority of RCW 76.04.015, RCW 76.04.135 and RCW 76.04.610(3); and by the District/Department under the authority of RCW 52.12.031, RCW 52.12.125, Title 35A RCW, and RCW 35.21.010; and DNR and District/Department in conformity with RCW 39.34, the Interlocal Cooperation Act.

In consideration of the terms, conditions and covenants contained herein, or attached and incorporated and made a part hereof, the Parties mutually agree as follows:

1. **Purpose:** The purpose of this Agreement is to (1) provide for mutual assistance and cooperation in the control and suppression of forestland fire and therefore to contract for the District/Department to provide fire protection services to an area within the jurisdiction of DNR and located in, or adjacent to, the District/Department and to contract for the DNR to assist in fire protection services on forestland within District/Department jurisdiction; and (2) dispatch and pay for fire service resources outside the fire service District/Department jurisdictional boundaries.
2. **Scope:** This Agreement pertains to forestland fire incidents within or adjacent to the District/Department boundaries and to District/Department resources ordered through the DNR Region or Division for dispatch outside of District/Department boundaries for support provided by DNR as outlined in Attachment A – Operational Guidelines for

Resources ordered through the DNR Region or Division for dispatch outside of District/Department boundaries.

3. **Term.** The term of this agreement is \_\_\_\_\_, or date of execution, whichever is later, through \_\_\_\_\_.
4. **Jurisdictional Responsibility:** Within or adjacent to the District/Department boundaries, the statutory jurisdictional responsibility for fire control on forestland varies. It may be:
  - (1) **Sole DNR Jurisdiction:** Land subject to Forest Fire Protection Assessment and District/Department is NOT collecting fire protection levy
  - (2) **Sole District/Department Jurisdiction:** Land subject to District/Department fire protection levy and not subject to Forest Fire Protection Assessment.
  - (3) **Joint Jurisdiction:** Land subject to Forest Fire Protection Assessment and the District/Department is collecting fire protection levy.
5. **Mutual Aid Fire Incident Response:**
  - (1) **Sole DNR Jurisdiction:** In the event of a fire emergency in a sole DNR jurisdiction area, the DNR will respond. The District/Department may respond to provide immediate control action, minimize fire loss, and thereby indirectly protect its own jurisdiction area. DNR may request response from the District/Department to gain timely initial attack and control action, or to supplement DNR resources.
  - (2) **Sole District/Department Jurisdiction:** In the event of a fire emergency in a sole District/Department jurisdiction area, the District/Department will respond. DNR may respond to provide immediate control action, minimize fire loss, and thereby indirectly protect its own jurisdiction area. The District/Department may request that DNR provide supplemental resources for fire emergency operations and support.
  - (3) **Joint Jurisdiction:** In the event of a fire emergency in a joint jurisdiction area, both DNR and the District/Department will respond, subject to the availability of resources.
6. **Off-Season Incidents:** For this Agreement, no incident will be considered off-season. Fire season will be January 1-December 31 each year.
7. **Command:**
  - (1) **Sole DNR Jurisdiction Incidents:** When the District/Department is the first arriving agency, the District/Department on-site initial responders shall establish command until released by a representative of DNR.

- (2) **Sole District/Department Jurisdictional Incidents:** When DNR is the first arriving agency, the DNR on-site initial responders shall establish command until released by a representative of the District/Department.
- (3) **Joint Jurisdiction Incidents:** The first arriving agency initial responders shall establish command and, upon the arrival of the other agency, unified command will be established and used for incident management.

## **8. Fire Control and Suppression Definitions:**

- (1) **Forestland:** As the term is defined by RCW 76.04.005.
- (2) **Ordering:** Prior to the arrival of DNR at the incident, the initial attack incident commander may order special resources through DNR. That decision may be documented and payment authorized (see Section 11 of this Agreement) by DNR prior to the mobilization of special resources.
- (3) **Special Resources:** Air resources, dozers, heavy equipment, or other resources deemed necessary to contain and control the fire.

## **9. Operation Guidelines:**

- (1) **Forestland Response:** Representatives of the District/Department and DNR may mutually develop operation guidelines that provide principles, direction and guidance for the conduct of fire control operations related to forest land response. The operation guidelines shall be reviewed at least annually, and revised as necessary to achieve cooperation and understanding.
- (2) **DNR Dispatch:** See Attachment A - Operation Guidelines for resources ordered through the DNR Region or Division for dispatch outside of the District/Department jurisdictional boundaries; which is incorporated by reference herein.

## **10. Fire Investigation:** The District/Department and DNR agree to protect the origin area of any fire to the best of its ability. Fires will be jointly investigated when an incident originated in a joint jurisdiction area. A DNR fire investigator may investigate fires originating on, spreading to or threatening land subject to Forest Fire Protection Assessment (i.e., sole DNR or joint jurisdiction areas).

## **11. Costs:**

- (1) **Charges Not Required:** One purpose of this Agreement is mutual assistance and cooperation in the control and suppression of fires (see Section 1 - Purpose). In most instances, resource costs will not be charged to the other party. However, there may be circumstances or conditions where the District/Department or DNR desires or is required to charge, or request reimbursement, for resource costs as described in Subsections (2), (3), (4), and (5) below.

- (2) **Sole DNR Jurisdiction:** If the District/Department responds, DNR will pay for District/Department personnel and equipment costs outside of mutual aid unless otherwise negotiated.
- (3) **Sole District/Department Jurisdiction:** If DNR responds, the District/Department will pay for DNR personnel and equipment costs outside of mutual aid unless otherwise negotiated.
- (4) **Joint Jurisdiction:** Initial attack through complete extinguishment of the fire, each party will pay its own costs.
- (5) **DNR Dispatch:** If District/Department personnel is dispatched by DNR outside of District/Department jurisdictional boundaries, DNR will pay for District/Department personnel and equipment costs.

## **12. Cost Reimbursement Procedures:**

- (1) **Forestland Response:** Provisions within this Agreement for reimbursement of costs related to forest land response are subject to the following conditions:
  - (a) Notice: Prior to costs being incurred as allowed by this Agreement (other than DNR Dispatch), notice of such expenditure must be given to DNR of the requesting agency prior to the expenditure or commitment of funds.
  - (b) Invoice: Any resource provider costs, which are to be billed, must be invoiced within sixty (60) business days of the last date of incurred expense for the incident.
- (2) **DNR Dispatch:** Provisions within this Agreement for reimbursement of costs related to DNR dispatch are outlined in Attachment A - Operation Guidelines for resources ordered through the DNR Region or Division for dispatch outside of the District/Department jurisdictional boundaries; which is incorporated by reference herein.

## **13. Cost Reimbursement Rates:**

- (1) **Forestland Response:**
  - (a) Equipment costs shall be paid to the resource provider at the DNR Wage and Equipment Rates or as otherwise agreed to in writing by the respective authorized agency representatives.
  - (b) Career/permanent and seasonal personnel costs will be reimbursed to the resource provider at the resource provider's actual total cost. This will include backfill costs as outlined in the State Mobilization Plan.
- (2) **DNR Dispatch:**

Cost reimbursement rates related to DNR dispatch are outlined in Attachment A - Operation Guidelines for resources ordered through the DNR Region or Division for dispatch outside of the District/Department boundaries.

14. **Insurance:** DNR is an agency of the state of Washington and is therefore self-insured under the State's Self-Insurance Liability Program. The District/Department shall, at all times during the term of this Agreement at its sole cost and expense, buy and maintain insurance of the types and amounts listed below. Failure to buy and maintain the required insurance may result in the termination of the Agreement at DNR's option. If the District/Department is self-insured or obtains through membership in a risk pool, evidence of its status as self-insured or membership in a risk pool will be provided to DNR, and if deemed acceptable by DNR, shall satisfy the insurance requirements specified by this Section. The limits of insurance to be bought and maintained by the District/Department shall not be less than as follows:

**Minimum Coverage Requirements:** These limits may not be sufficient to cover all liability losses and related claim settlement expenses. Purchase of these minimum limits of coverage does not relieve the District/Department from liability for losses and settlement expenses greater than these amounts. DNR shall not be charged for the cost for insurance coverage(s).

District/Department is required to purchase insurance for a period of 36 months after completion of this Agreement. This requirement may be satisfied by the continuous purchase of an extended agreement. This requirement may be satisfied by the continuous purchase of an extended reporting period. During the term of the Agreement, District/Department must purchase and maintain the insurance coverage and limits specified below:

- (1) **Commercial General Liability (CGL) Insurance or District/Department Equivalent.** District/Department must purchase and maintain CGL on an Insurance Services Office (ISO) form CG 00 01 or equivalent form, covering liability arising from premises, operations, independent contractors, personal injury, products-completed operations, and liability assumed under an insured contract. Such insurance must be provided on an occurrence basis. If insurance is written on a "claims made" basis, the policy shall provide full coverage for prior acts or include a retroactive date that precedes the effective date of this Agreement. Insurance must include liability coverage with limits not less than those specified below:

| <u>Description</u>  | <u>Dollar Amount</u> |
|---|----------------------|
| General Aggregate Limit<br>(Other than products-completed operations) | \$2,000,000          |
| Each Occurrence Limit   | \$2,000,000          |

- (2) **Employer's liability ("Stop Gap") Insurance:** District/Department shall purchase and maintain employer's liability insurance and if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.
- (3) **Business Auto Policy (BAP) Insurance:** If activities pursuant to this Agreement involve the use of vehicles, to include FEPP vehicles, the District/Department must purchase and maintain a BAP on an Insurance Services Office (ISO) form CA 00

01 or equivalent form. The Description of Covered Autos must include one or more of the following:

- a. "Any Auto" (Symbol 1).
- b. If District/Department-owned personal vehicles are used, the BAP must cover "Owned Autos Only" (Symbol 2).
- c. If District/Department hires autos, the BAP must cover "Hired Autos Only" (Symbol 8).
- d. If District/Department employee's vehicles are used, the BAP must cover "Non-Owned Autos Only" (Symbol 9).

Such insurance must be provided on an occurrence basis. The BAP insurance must include liability coverage with limits not less than those specified below. The District/Department is responsible for any deductible.

| <u>Description</u>                | <u>Each Accident</u> |
|-----------------------------------|----------------------|
| Bodily Injury and Property Damage | \$1,000,000          |

- (4) **Workers Compensation Insurance or Equivalent:** The District/Department shall comply with all state of Washington workers compensation statutes and regulations. Coverage shall be provided for all employees and volunteers of the District/Department and shall include bodily injury (including death) that arises out of or in connection with the performance of this Agreement.

- 15. Service Limitations.** The responses and fire suppression services provided for under this Agreement are intended to be rendered on the same basis as such services are rendered to other areas within the District/Department or DNR jurisdictions and neither party assumes liability for failure to provide services by reason of any circumstances beyond the party's control. In the event of simultaneous fires or medical aid calls within the areas covered by this Agreement whereby facilities of either party are taxed beyond the party's ability to render equal protection, the officers and agents of the party shall have sole discretion as to which call shall be answered first. The responding party shall have sole discretion to determine the manner and method of responding to and handling emergencies under this Agreement consistent with Section 7 - Command of this Agreement.
- 16. Benefits.** This agreement is entered into for the benefit of the parties to this agreement only and shall confer no benefits, direct or implied, on any third persons.
- 17. Renegotiation and Modification:** The terms and conditions of this Agreement may be renegotiated at the request of either Party between January 1 and March 1 of any year. Any modification or amendment of this Agreement must be in writing and must be signed by duly authorized agents of the Parties.
- 18. Assignment and Delegation:** This Agreement, or any right or interest therein, may not be assigned or otherwise transferred by either Party without the prior written consent of the other Party. Any attempted assignment shall be void unless made in strict conformity with this section.

Either Party may perform its duty through a delegate or agent, but shall not be thereby relieved of any duty to perform or any liability for breach of this Agreement.

19. **Remedies:** Any remedy exercised by either Party shall not be deemed exclusive and either Party may pursue any and all other remedies available to it under the law.
20. **Compliance with Laws:** Parties shall comply with all applicable federal, state, and local laws, rules and regulations that govern each component of this Agreement.
21. **Non-Waiver:** Waiver by either Party of strict performance of any provision of this Agreement shall not act as a waiver of the right of the other Party to require future strict performance of the same provision or any other provision.
22. **Interpretation and Venue:** This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington. The venue of any action brought under this Agreement shall be in the Superior Court of Thurston County.
23. **Severability:** If any provision of this Agreement is held to be invalid, such invalidity shall not affect the other provisions of this Agreement that can be given effect without the invalid provision(s), and to this end the provisions of this Agreement are declared severable.
24. **Termination:** This Agreement may be terminated by either Party by the provision of ninety (90) days written notice, provided that neither Party may terminate this Agreement at any time between April 15 and October 15 of any year due to the fire danger during this period.
25. **Agreement Managers:**

| DNR AGREEMENT MANAGER |                          |
|-----------------------|--------------------------|
| Name:                 | David Way                |
| Title:                | Fire Management Forester |
| Address:              | 919 N Township St        |
| City/State/Zip:       | Sedro Woolley, WA        |
| Phone:                | 360-856-3500             |
| Email:                | david.way@dnr.wa.gov     |

| DISTRICT/DEPARTMENT AGREEMENT MANAGER |                          |
|---------------------------------------|--------------------------|
| Name:                                 | Bryan Brice              |
| Title:                                | Fire Chief               |
| Address:                              | 1901 N LaVenture Rd      |
| City/State/Zip:                       | Mt Vernon, WA 98273      |
| Phone:                                | 360-336-6277             |
| Email:                                | bryanb@mountvernonwa.gov |

This Agreement supersedes all previous agreements.

By signature below, the Agencies certify that the individuals listed in this document, as representatives of the Agencies, are authorized to act in their respective areas for matters related to this instrument.

**IN WITNESS WHEREOF, the parties have executed this Agreement.**

**DISTRICT/DEPARTMENT**

|              |      |
|--------------|------|
| Signature    | Date |
| Printed Name |      |
| Title        |      |

**STATE OF WASHINGTON  
DEPARTMENT OF NATURAL RESOURCES**

|              |      |
|--------------|------|
| Signature    | Date |
| Printed Name |      |
| Title        |      |

**DISTRICT/DEPARTMENT**

|              |      |
|--------------|------|
| Signature    | Date |
| Printed Name |      |
| Title        |      |

**DISTRICT/DEPARTMENT**

|              |      |
|--------------|------|
| Signature    | Date |
| Printed Name |      |
| Title        |      |

**DISTRICT/DEPARTMENT**

|              |      |
|--------------|------|
| Signature    | Date |
| Printed Name |      |
| Title        |      |



**Operation Guidelines**  
**Resources ordered through the DNR Region or Division for**  
**dispatch outside of District/Department jurisdictional boundaries**

Department of Natural Resources (DNR) agrees to dispatch District/Department resources to incidents outside of the Districts/Department jurisdictional boundaries as needed to meet DNR responsibilities and as approved by the District/Department. Dispatches can include out of the state of Washington. Participation by a District/Department with incidents outside its jurisdiction is voluntary and separate from involvement in State Fire Mobilization.

This Agreement extends to all District/Department members:

- Washington Fire Service (WFS) paid members which District/Department allow to participate will be paid by the District/Department. DNR will reimburse district/department costs as outlined in this agreement
- Members of Washington Fire Service who are volunteers will need to be hired by the DNR via the DNR casual hire process and paid directly by DNR. This may be completed pre-season or at the time of the incident. Your local DNR Region office will handle the casual hire process.

**District/Department agrees:**

- 1) All personnel dispatched outside of their jurisdictional boundaries will have a valid Incident Qualification Card (red card) stating current qualifications; and will adhere to qualifications and standards described in PMS 310-1;
- 2) To provide a copy of the Master IQS Record for each participating employee (needed to update status in the Resource Ordering Status System (ROSS)) if requested;
- 3) To keep equipment and personnel status current in ROSS by selecting option a. or b. below as the preferred option. List available resources on the following resource list addendum. (Check one):
  - a. ☐ DNR Region will give Web-Status rights to ROSS for district employees. It is the employee's responsibility to ensure that their status is accurate.
  - b. ☒ DNR Region will status your employees. For this option, you would need to provide your local DNR Region Dispatch with the status of your employees every Monday by 1200 hours. Dispatch would then update their status in ROSS for that week (0800 Tuesday to 0800 Tuesday).

For dispatches outside of the DNR region, approval from DNR host region fire staff is required. Host region fire staff will coordinate with Wildfire Division in order to ensure statewide readiness.

- 4) To notify your local DNR Region of any changes in status of personnel/equipment (i.e.; dispatched/demob under State Fire Mobilization, demob & ETA home from incidents dispatched thru DNR, etc.);

- 5) All personnel and equipment dispatched will be paid by the District/Department; (except volunteers will follow payment procedures outlined in their individual agreement and be paid directly by DNR);
- 6) All Equipment and Personnel dispatched under this agreement will arrive at each incident with a copy of their current Forestland Response Agreement.
- 7) Invoice for personnel and equipment costs billed to DNR will include:
  - a. Original Emergency Fire Time Report (OF-288); hourly wage rate (regular and OT) for personnel hours on the OF-288. This applies to paid district/department staff. Volunteers will be paid directly by DNR.
  - b. Original shift ticket (OF-286) documenting mileage to/from incident as well as mileage incurred on the incident signed by the incident supervisor.
  - c. Copy of Resource Order card.
- 8) Invoices requesting payment for equipment (engines/tenders) will be submitted to DNR within sixty (60) business days of the last date of the incurred expense for the incident and shall include Original Emergency Equipment Use Invoice Form (OF-286) and shift tickets (OF-297); and
- 9) Invoices requesting payment for other travel costs (meals, lodging not provided by the incident) must be submitted to DNR within sixty (60) business days of the last date of the incurred expense for the incident.
- 10) Only utilize agency owned vehicles or procured rental vehicles on the fire line or offroad.

**DNR agrees to:**

- 1) Assist the District/Department with updating status' in ROSS;
- 2) Maintain IQS records for District/Department personnel with wildland fire qualifications, if red carded through the DNR;
- 3) Reimburse District/Department within 30 days of invoice receipt and documentation as required above;
- 4) Reimburse the Fire Service District/Department at the Total Cost of personnel. This includes, regular time, overtime, and District/Department backfill for that position as outlined in the State Mobilization Plan. The DNR will not pay for muster time, wildland premium pay, or other unspecified pay provisions.

**\*\*Rental vehicles must be procured consistent with the R6 USFS rental vehicle agreement. Rental vehicle authorization must be documented on the resource order. Please speak with your local DNR Region for more specific information. In order to provide audit tracking for all rental vehicles, rentals ordered for overhead resources with ROSS O # Resource Orders, will have a support request ROSS order attached to that O# resource, with an E# assigned to the vehicle. The overhead resource and Dispatch will ensure that if that person is re-assigned or released, the supporting vehicle order will also be re-assigned or released.**

**DISTRICT/DEPARTMENT RESOURCE LIST  
OVERHEAD AND EQUIPMENT ADDENDUM**

DNR will dispatch and process invoices for the following fire district members and equipment when dispatched by DNR outside of their fire district.

**Overhead Resources**

| Name | Career or Volunteer | Backfill Required | Position/Qualifications | Team Affiliation or Single Resource |
|------|---------------------|-------------------|-------------------------|-------------------------------------|
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| <b>EQUIPMENT (*Type of Equip, *Identifier, *VIN, *Year, Serial # or Lic #</b><br><i>Ex: ENGINE, Type 6, Brush 1411, VIN 1ABCD34E56GH778899, 2003, Lic # 67454C</i><br><b>*Required information</b> | <b>RATE/NEGOTIATED RATE *</b><br><b>(DNR uses the rates listed in the WA State Wage &amp; Equipment Rate Guide)</b> |
|--|---|
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\* The negotiated rate must be agreed upon between the signing parties prior to dispatch.

Equipment Typing must meet the national standards. Do Not list any Type 1 Engines, as DNR doesn't utilize those resources on wildland incidents.

**CONTACT INFORMATION:**

## **Attachment B**

### **Forest Land Response Agreement Northwest Region Operational Guidelines**

#### **The District will:**

- Timely (within 30 minutes) notify DNR's Northwest Region Dispatch at 360-854-2878 for all Sole DNR and Joint Jurisdiction Wildland Fires that the District takes response or suppression action on. If after hours and the DNR Dispatch office is not staffed: call 800-562-6010 to reach a Northwest Region Duty Officer.
- Make every effort to identify and preserve wildland fire origin for the DNR investigation.
- Provide DNR with a good fire size-up report (pink card) to help expedite DNR's response.
- Establish a Unified Command with DNR as soon as qualified Incident Commanders from DNR arrive when:
  - The wildland fire is within District Boundaries and the property is included in District levy.
  - The wildland fire is adjacent to and threatening District Protection.
- When fire is Sole DNR jurisdiction, report any broken or missing District equipment to the Incident Commanders, while still on the incident, for appropriate documentation and follow up.
- When fire is joint jurisdiction, District and Department suppression obligation is through total extinguishment.

#### **The DNR will:**

- On joint jurisdiction wildland fires, Investigate, patrol and assure fire extinguishment.
- Assist the District with ROSS statusing.
- Maintain IQS records for District personnel with wildland fire qualifications, if red carded through DNR.
- Use the Interagency Wage and Equipment Rates for District reimbursement following mutual aid response on sole DNR jurisdiction fires.



## FIRE DISTRICT ASSISTANCE AGREEMENT

### Agreement No.

This Agreement is entered into by and between the State of Washington, Department of Natural Resources, hereinafter referred to as "DNR", and the City of Mount Vernon, WA dba the Mt Vernon Fire Department, hereinafter referred to as "District/Department" and collectively referred to as the "Parties".

Authority: This Agreement is entered into by DNR under the authority of RCW 76.04.015(6), by Fire Protection Districts, under the authority of Title 35A RCW by municipal code cities, under the authority of RCW 52.12.031 and Fire Departments under the authority of RCW 35.21.010 in conformity with RCW 39.34, the Interlocal Cooperation Act.

In consideration of the terms, conditions and covenants contained herein, or attached and incorporated and made a part hereof, the Parties mutually agree as follows:

**Purpose:** This Agreement addresses the terms and conditions for: (1) all federal excess property sub-loaned by DNR to the District/Department under the Federal Property and Administrative Services Act of 1949, as amended (P.L. 94-519) and section 7 of the Cooperative Forestry Assistance Act of 1978 (P.L. 95-313), hereinafter referred to as the Federal Excess Personal Property program; and (2) the transfer of firefighting and emergency service property, facilitated by DNR, to the District/Department under the Rural Fire Department Equipment Priority Act, 10 USC 2576b, hereinafter referred to as the Firefighter Property program.

### SECTION 1: FEDERAL EXCESS PERSONAL PROPERTY

**1.01 Federal Excess Personal Property:** Upon request from the District/Department, and subject to its compliance with the requirements imposed by law and this Agreement to administer, account for, use and dispose of Federal Excess Personal Property (FEPP) acquired under the Federal Property and Administrative Services Act, DNR will sub-loan eligible FEPP to the District/Department. Federal regulations are amended from time to time and District/Department agrees to comply with current and future regulations.

**1.02 Property Acquisition:** The District/Department is required to identify its needs by completing a request form provided by DNR. DNR will acquire eligible FEPP suitable for conversion into firefighting or fire prevention apparatus. FEPP will be sub-loaned to fire districts and departments "as is" with no disclosure or warranty of implied condition.

- (1) Ownership of all non-consumable FEPP shall remain the property of the U.S. Forest Service.

- (2) All FEPP must be used for firefighting and fire prevention activities. Personal use of FEPP for purposes not directly associated with normal responsibilities of the District/Department is prohibited.

**1.03 Identification:** DNR will identify all non-consumable FEPP with a program identification tag with an inventory tracking number.

**1.04 Equipment Use, Refurbishment, and Maintenance Requirements:**

- (1) The District/Department agrees to accept FEPP in “as is” condition, and to refurbish, equip, repair, and maintain it at no cost to DNR. FEPP must be put into service within one year of acceptance. The District/Department may receive an extension of the one-year time limit for good cause upon written request to DNR prior to the one-year anniversary date.
- (2) If FEPP is not put into service within one year and the District/Department does not receive written approval from DNR for an extension, DNR will notify the District/Department of an “in service” violation and reallocate or dispose of the item.
- (3) All vehicles and trailers must be registered and licensed by the District/Department through the Washington Department of Licensing, and copies provided to DNR.
- (4) Prior to placing FEPP in service, the District/Department must remove all military or governmental exterior logos, insignias and identification numbers. FEPP must be painted when original paint is deteriorated or peeling. In addition, remove or paint over all military paint patterns for vehicles, trailers, and other equipment operated on public roads.
- (5) Cannibalization. Cannibalization is the practice of disassembling unserviceable FEPP to use serviceable parts on similar units. The removal of any parts other than minor items is cannibalization. It is permissible to strip components from one or more pieces of FEPP to create a usable apparatus subject to written approval of the USDA Forest Service through DNR. The process to strip and dispose of excess components must be completed within one year of written approval to cannibalize. The District/Department will notify DNR immediately after cannibalization is complete. DNR will dispose of remaining components through the USDA Forest Service and General Services Administration (GSA).
- (6) In case of loss, theft, damaged, destroyed, or vandalized property, the District/Department is required to notify DNR within 48 hours of occurrence. Upon notification, DNR will submit appropriate forms to the District/Department for documentation, and to the USDA Forest Service for appropriate action. If the property is insured, USDA Forest Service must receive a share of any insurance proceeds equal to their ownership share in the property. If gross negligence is involved, the District/Department may be required to pay fair market value for the FEPP or repair or replace the property at District/Department expense.

- 1.05 Property Disposal:** The District/Department agrees to report, in a timely manner, all inoperable, cannibalized, not in use, or seldom used FEPP to DNR for reallocation or disposal. DNR will conduct reallocation or disposal activities at the District/Department's facility. The District/Department agrees to facilitate all required activities and to obtain signed documents to complete the reallocation or disposal process.
- 1.06 Property Inventory/Audit:** Upon request by DNR, the District/Department agrees to make FEPP items available for the purpose of conducting a physical inventory and to facilitate a program review. The District/Department shall provide access to and the right to examine all records, books, papers, or documents relating to the FEPP to facilitate a State or Federal audit. The District/Department is required to maintain property records for a minimum of six (6) years and three (3) months after receipt of all non-consumable FEPP (i.e. registration, insurance, final disposal).

## **SECTION 2: FIREFIGHTER PROPERTY PROGRAM**

- 2.01 Firefighter Property Program:** Upon request from the District/Department, and subject to District/Department compliance with the requirements imposed by law and this Agreement to administer, account for, use and dispose of Department of Defense (DOD) excess property, DNR will facilitate transfer of such property to the District/Department under the Firefighter Property (FFP) program, as authorized by 10 U.S.C. 2576b. Federal regulations are amended from time to time and District/Department agrees to comply with current and future regulations.
- 2.02 Property Acquisition:** The District/Department is required to identify its FFP needs by completing a request form provided by DNR. DNR will facilitate transfer of FFP suitable for use or conversion to use in support of the District/Department's firefighting and emergency services. FFP will be transferred "as is" with no disclosure or warranty as to implied condition.
- 2.03 Title and Ownership:**
- (1) Conditional ownership and title (when title is applicable) to all non-consumable FFP will be transferred to the District/Department, with the exception of "controlled property" as defined in 2.05 below. The District/Department is responsible to register and transfer title to any vehicle or trailer obtained through the FFP program in the name of the District/Department in accordance with applicable state law, and provide copies to DNR. Full ownership and title will vest in the District/Department upon meeting the requirements in 2.04(1) below.
  - (2) The sale or transfer of FFP property to non-FFP participants must be in compliance with U.S. Export Control Regulations, including the Export Administration Regulations (EAR) (15 CFR Parts 730-774) and the International Traffic in Arms Regulations (ITAR) (22 CFR Parts 120-130). District/Department must notify future purchasers or transferees, in writing, of this requirement.
  - (3) FFP cannot be sold or transferred to non-U.S. citizens, and the sale or transfer of Demilitarization Q6 FFP requires Trade and Securities Commission approval.



#### **2.04 Property Use:**

- (1) All FFP shall be refurbished and put into service in support of the District/Department's firefighting or emergency services within one year of transfer, at no cost to DNR. In addition, all FFP must be retained and used in service for a minimum of one year after being put into service.
- (2) If the District/Department does not meet the FFP program in service requirements, the District/Department agrees, at no cost to DNR, to return, transfer, or scrap the FFP as directed by DNR and in compliance with FFP program requirements. In addition, DNR may suspend the District/Department from future participation in the FFP program.
- (3) District/Department will label all FFP with an inventory number provided by DNR. Inventory number must remain readable until in-service requirements are complete.
- (4) Within one year after transfer, District/Department will provide proof in a form acceptable to DNR that FFP is in service.
- (5) District/Department use of FFP must be for its intended purpose. Personal use is prohibited.
- (6) Cannibalization of FFP is prohibited.
- (7) Prior to placing FFP in service, the District/Department must remove all military or governmental exterior logos, insignias and identification numbers. In addition, remove or paint over all military paint patterns for vehicles, trailers, and other equipment operated on public roads.

#### **2.05 Controlled Property:**

- (1) FFP identified by DOD as demilitarization B, C, D, E, F, G, and Sensitive Q3 (referred to as "controlled property") remains in the ownership of DOD, and will be tracked and inventoried in the USDA Forest Service Federal Excess Property Management Information system (FEPMIS) until final disposition. The District/Department is required to return controlled property to the nearest DOD Defense Logistics Agency (DLA) Disposition Services site. If a DLA site is not close, the District/Department may be allowed to demilitarize the FFP on site, through crushing, mutilation, cutting, and to make the item unusable for its original intended use. The USDA Forest Service and DNR will coordinate demilitarization activities through the Distribution Reutilization Policy Director at the Defense Logistics Agency. Costs required for the District/Department to return or demilitarize controlled property shall be the responsibility of the District/Department.
- (2) District/Department must request DNR approval prior to removing any parts or components from controlled property, and must return removed parts to the nearest DLA site at its own expense.

- (3) In case of lost, missing, stolen, or destroyed controlled property the District/Department is required to notify DNR within 48 hours of occurrence. Upon notification, DNR will submit appropriate forms to the District/Department for documentation, and to the DOD through the USDA Forest Service for appropriate action. If the FFP is insured, DOD must receive any insurance proceeds.

**2.06 Records:** The District/Department agrees to provide access to and the right to examine all FFP, records, books, papers or documents for all equipment transferred under the FFP program to the USDA Forest Service (including its Office of Inspector General), DNR, DOD (including its Office of Inspector General), the Comptroller General of the United States, or their authorized representatives. The District/Department is required to maintain property records for a minimum of six (6) years and three (3) months after receipt of all non-consumable FFP property (i.e. registration, insurance, final disposal).

### SECTION 3: GENERAL

**3.01 Program Information:** FEPP and FFP program information is available on the DNR website.

**3.02 Hold Harmless:** To the extent permitted by federal law, District/Department shall indemnify and hold the U.S. Government harmless from any and all actions, claims, debts, demands, judgments, liabilities, costs, and attorney's fees arising out of, claimed on account of, or in any manner predicated upon loss of or damage to property, or injuries, illness or disabilities to or death of any person or legal or political entity including state, local and interstate bodies, in any manner caused by or contributed to by District/Department, its agents, servants, employees, or any person subject to its control while in, upon or about the sale site and/or the site on which the property is located, or while the property is in the possession of, used by, or subject to the control of District/Department, its agents, servants, or employees after the property has been removed from U.S. Government control. The U.S. Government assumes no liability for damages or injuries to any person(s), or property arising from the use of the excess DoD personal property.

**3.03 Insurance:** The District/Department shall, at all times during the term of this Agreement at its sole cost and expense, buy and maintain insurance of the types and amounts listed below to cover damages or injuries to persons or property relating to the use of property obtained under this agreement. Failure to buy and maintain the required insurance may result in the termination of the Agreement at DNR's option. If the District/Department is self-insured or obtains through membership in a risk pool, evidence of its status as self-insured or membership in a risk pool will be provided to DNR, and if deemed acceptable by DNR, shall satisfy the insurance requirements specified by this Section.

**Minimum Coverage Requirements:** These limits may not be sufficient to cover all liability losses and related claim settlement expenses. Purchase of these minimum limits of coverage does not relieve the District/Department from liability for losses and settlement expenses greater than these amounts.

During the term of the Agreement, District/Department must purchase and maintain the insurance coverage and limits specified below:

- (1) **Commercial General Liability (CGL) Insurance or District/Department Equivalent.** District/Department must purchase and maintain CGL on an Insurance Services Office (ISO) form CG 00 01 or equivalent form, covering liability arising from premises, operations, independent contractors, personal injury, products-completed operations, and liability assumed under an insured contract. Such insurance must be provided on an occurrence basis. If insurance is written on a “claims made” basis, the policy shall provide full coverage for prior acts or include a retroactive date that precedes the effective date of this Agreement. Insurance must include liability coverage with limits not less than those specified below:

| <u>Description</u>  | <u>Dollar Amount</u> |
|---|----------------------|
| General Aggregate Limit<br>(Other than products-completed operations) | \$2,000,000          |
| Each Occurrence Limit   | \$2,000,000          |

- (2) **Employer's liability ("Stop Gap") Insurance:** District/Department shall purchase and maintain employer's liability insurance and if necessary, commercial umbrella liability insurance with limits not less than \$1,000,000 each accident for bodily injury by accident or \$1,000,000 each employee for bodily injury by disease.
- (3) **Business Auto Policy (BAP) Insurance:** If activities pursuant to this Agreement involve the use of vehicles, the District/Department must purchase and maintain a BAP on an Insurance Services Office (ISO) form CA 00 01 or equivalent form with such insurance covering liability arising out of “Any Auto”.

Such insurance must be provided on an occurrence basis. The BAP insurance must include liability coverage with limits not less than those specified below. The District/Department is responsible for any deductible.

| <u>Description</u>                | <u>Each Accident</u> |
|-----------------------------------|----------------------|
| Bodily Injury and Property Damage | \$1,000,000          |

- (4) **Workers Compensation Insurance or Equivalent:** The District/Department shall comply with all state of Washington workers compensation statutes and regulations. Coverage shall be provided for all employees and volunteers of the District/Department and shall include bodily injury (including death) that arises out of or in connection with the performance of this Agreement

**3.04 Non-Discrimination.** During the performance of activities under this Agreement, District/Department shall comply with all federal, state and local non-discrimination laws, regulation and policies. In the event of non-compliance or refusal to comply with any non-discrimination law, regulation or policy, this Agreement may be rescinded, cancelled or terminated in whole or in part, and District/Department may be declared ineligible for further participation in FEPP and/or FFP.

**3.05 Renegotiation and Modification:** The terms and conditions of this Agreement may be renegotiated at the request of either Party. Any modification or amendment of this Agreement must be in writing and signed by duly authorized agents of the Parties.

- 3.06 Assignment and Delegation:** This Agreement, or any right or interest therein, may not be assigned or otherwise transferred by either Party without the prior written consent of the other Party. Any attempted assignment shall be void unless made in strict conformity with this section. Either Party may perform its duty through a delegate or agent, but shall not be thereby relieved of any duty to perform or any liability for breach.
- 3.07 Remedies:** Any remedy exercised by either Party shall not be deemed exclusive, and either Party may pursue any and all other remedies available to it under the law.
- 3.08 Non-Waiver:** Waiver by either Party of strict performance of any provision of this Agreement shall not act as a waiver of the right of the other Party to require future strict performance of the same provision or any other provision.
- 3.09 Interpretation and Venue:** This Agreement shall be construed and interpreted in accordance with the laws of the state of Washington. The venue of any action brought under this Agreement shall be in the Superior Court of Thurston County.
- 3.10 Severability:** If any provision of this Agreement is held to be invalid, such invalidity shall not effect the other provisions of this Agreement that can be given effect without the invalid provision(s), and to this end the provisions of this Agreement are declared to be severable.
- 3.11 Termination:** This Agreement may be terminated by either Party upon ninety (90) days written notice. Termination of this Agreement makes the District/Department ineligible to participate in FEPP or FFP, and District/Department agrees to dispose of all FEPP per 1.05 above and all FFP that has not met the requirements of 2.04(1) above per 2.04(2) above.
- 3.12 Compliance with Laws:** The District/Department shall comply with all applicable federal and state laws and regulations that govern each component of this Agreement.
- 3.13 Term of Agreement:** This Agreement shall be effective from the date of the last signature for a term of five years unless otherwise terminated in accordance with the terms of this Agreement.

This Agreement supersedes all previous agreements.

By signature below, the Agencies certify that the individuals listed in this document, as representatives of the Agencies, are authorized to act in their respective areas for matters related to this instrument.

**IN WITNESS WHEREOF, the parties have executed this Agreement.**

**DISTRICT/DEPARTMENT**

**STATE OF WASHINGTON**

**DEPARTMENT OF NATURAL RESOURCES**

Signature

Date

Signature

Date

Printed Name

Printed Name

Title

Title

**DISTRICT/DEPARTMENT**

Signature

Date

Printed Name

Title

**DISTRICT/DEPARTMENT**

Signature

Date

Printed Name

Title

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